

STATEMENT OF JULIUS FLEISCHMAN

I am a developer with decades of experience starting from the 1940's and have subdivided property into 5,000 square foot lots within walking distance of the subject property. Not only am I very familiar with the subject property having lived next door to it for forty years but have walked it on numerous occasions and analyzed its many possibilities from a development standpoint.

By matter of right and after allowance for topographical and environmental/erosion issues the subject property would allow the development of 30 to 35 units on conforming lots. Even assuming perfect topography, and once one allows for DDOT approved roads surrounded by minimally conforming lots, it is a physical and mathematical impossibility to attain a 54 unit density much less 66 units as the applicant has described in exhibit Q of their application.

If, as the applicant maintains, they can achieve 66 matter of right lots there would be no need for variance relief. Obviously, this is simply a ploy. The applicant wishes to convey the false impression that they are reducing the density on the land from their matter of right capability to something less. In reality, their true matter of right capability with the land is significantly less than 54 units and they are seeking to increase the density through surreptitious means. In other words, rezoning the land through variances.

The applicant has made numerous conclusory statements regarding the practical difficulties or extreme hardship they will encounter but has offered little or no evidence. These factors, which would preclude the profitable development of the land, are not present here. Furthermore, we wish to remind the Board that an applicant cannot seek a variance simply to circumvent the

BOARD OF ZONING ADJUSTMENT
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zoning regulations and “jack up” its profits. The discussion in Palmer vs Board of Zoning Adjustment which is particularly instructive here, buttresses this point:

“The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case. But it is certain that a variance cannot be granted where property conforming to the regulations will produce a reasonable income but, if put to another use, will yield a greater return.”

Moreover, we wish to add that of the seven cases the applicant has cited none of them appear to support their position. If there was a case that was consistent with their position, surely they would have cited it. Granting this application, therefore, would likely be viewed as contradictory to the case law in our jurisdiction.

If the applicant used the true matter of right density and clustered these units there would be less debate and we would welcome this discussion. If the applicant built true single family homes on conforming lots even with little or no open space the community would welcome the development with open arms and, in fact, could not and would not stop such a development as it would be in compliance with the Zoning Regulations, consistent with the Master Plan and compatible with the Hillcrest neighborhood.

What can be heard time and time again is that the type of housing EYA builds is great in in-town neighborhoods such as U Street, Capitol Hill and by the baseball stadium. It is even great in some of the suburbs. However, what we have is a quiet residential neighborhood with large lots and beautiful custom homes. It is neither city nor suburb. For those who want the

EYA type of home, which definitely has its place, they can easily find it. The quaintness and charm which we possess and enjoy is reminiscent of a Norman Rockwell America which is not easy to find but yet is so easy to lose.

For these reasons, EYA has had success stories in several areas but it has also had opposition. In Takoma Park, an area well known for its detached Victorian homes, the residents have bitterly fought EYA's development of a piece of land for years. They are not EYA's target market and neighborhood and nor are we. In this same vein, we are prepared to use any means necessary to protect our interest.